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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,609	08/30/2002	Rino Messere	214502US0PCT	6443

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EXAMINER

UHLIR, NIKOLAS J

ART UNIT PAPER NUMBER

1773

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/926,609

Applicant(s)

MESSERE ET AL.

Examiner

Nikolas J. Uhler

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: it is drawn to the non-entered amendment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 52-73.

Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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Continuation of box 2(a): The amendment will not be entered because it presents new issues that require further search and or consideration. Applicants proposed amendment would enter into the claims a requirement that the polymeric coating contain no particles. This requirement was not earlier considered and requires further search and or consideration to determine patentability.

While the proposed amendment would overcome the applied 35 U.S.C. 112 rejection and the Scholz reference as applied in the 103(a) rejection, the amendment does not appear to render the instantly claimed invention non-obvious over the cited art of record. Previously, the examiner cited a patent reference to Creasy, which discloses an antifogging coating containing a combination of polyvinylpyrrolidone and polyvinylacrylate and no particles. The creasy coating can be applied to substrates such as glass windows. When considered in view of the disclosures in Scholz and Florentin, the examiner feels it would have been obvious to one of ordinary skill in the art at the time the invention was made substitute the Creasy coating for the heated element in Florentin. One would have been motivated to make this modification in view of the reduced energy requirements (no powered element would be necessary). One would have a reasonable expectation of success in making the proposed combination in view of the teaching in Scholz that polyvinylpyrrolidone antifogging coatings are suitable used on substrates exposed to large temperature and humidity differentials (and a refrigerated door is clearly exposed to large temperature and humidity differentials).

While the examiner acknowledges that none of the cited references teach the claimed antifrosting property (preventing the visible formation of condensation for 12

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seconds upon exposure to room temperature), there is nothing of record that establishes that any polyvinylpyrrolidone or any other generic polymer of the types claimed in claim 52 would not necessarily meet this property. Further, given that the prior art is clearly concerned with the same type of property (anti-fogging) as the instant invention and is made of similar materials, there is a fairly strong inference (at least without a showing otherwise) that the materials used in the cited prior art will necessarily meet applicants claimed property.

In addition, the dependent claims (which are limited to PVP or polyurethane or to a specified thickness) would also be read on by the above noted combination of references. Creasy as noted above teaches the use of PVP. Further, thickness is a property that is well within the realm of one of ordinary skill to adjust. There is no teaching or suggestion in the disclosure as filed that the thickness is critical to obtaining the functionality of the claimed invention. Without such a showing, the examiner does not consider the thickness requirement to render the claims patentable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikolas J. Uhlir whose telephone number is 571-272-1517. The examiner can normally be reached on Mon-Fri 7:30 am - 5 pm. However, the examiner's last day at the USPTO is on December 30th, 2004. Therefore, if attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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D. S. Nakarani
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PRIMARY EXAMINER